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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,976	02/19/2004	William Sherman	1734-0018	1046
7590 07/03/2008				
Harold C. Moore Maginot, Moore & Beck Bank One Center/Tower 111 Monument Circle, Suite 3000 Indianapolis, IN 46204-5115			EXAMINER BORISSOV, IGOR N	
			ART UNIT 3628	PAPER NUMBER
			MAIL DATE 07/03/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/781,976

Applicant(s)

SHERMAN ET AL.

Examiner

Igor N. Borissov

Art Unit

3628

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 4, 5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1, 4, 5 are directed to a series of steps. In order for a series of steps to be considered a proper process under § 101, a claimed process should either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). Thus, to qualify as patent eligible, these processes should positively recite the other statutory class to which it is tied (e.g., by identifying the apparatus which accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g., by identifying the product or material that is changed to a different state). Claims 1, 4, 5 identify neither the apparatus performing the recited steps nor any transformation of underlying materials, and accordingly are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites: "...associated at least one segment, if necessary, with the at least one user based on the identifier of the at least one segment;"; which is confusing.

It is not clear which conditions have to be fulfilled in order to necessitate the recited step.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly et al. (US 6,088,659).

Kelley et al. teaches:

Claims 1, 7, 14,

receiving information corresponding to the provider and at least one entity that receives the utility commodity from the provider (Fig. 1);

forming a tree comprised of a root node and at least one leaf node emanating from the *root* node, the root node corresponding to the provider and the at least one leaf node corresponding to the at least one entity (C. 15, L. 18-24);

associating a meter proxy with the at least one leaf node, the meter proxy containing data from meter readings, the meter proxy comprising an interface to data generated by a physical utility meter (C. 36, L. 39-49);

associating at least some of the received information corresponding to the provider and the at least one entity with the root nodes and the at least one leaf node, respectively (C. 37, L. 6-11);

associating actions relating to the providing of one of the utility commodity with each of the nodes based on the received information associated therewith (C. 33, L. 6-23; C. 37, L. 64 - C. 38, L. 2).

Claim 2. The method of claim 1, wherein the meter proxy provides meter change information regarding the physical utility meter (C. 36, L. 39-49).

Claim 3. The method of claim 1, wherein the meter proxy provides data relating to load profiles regarding the physical utility meter (C. 29, L. 1-5).

Claim 5. The method of claim 1 further comprising associating the meter proxy with a set of active elements and associating the set of active elements with the at least one leaf node (C. 36, L. 39-49).

Claim 6. The method of claim 1 wherein the meter proxy further comprises an interface to data generated by an electricity meter (Figs. 1, 4; C. 41, L. 32-39).

Claims 8-13, 15-21, same reasoning as applied above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly et al.

Claim 4.

Kelly et al. discloses:

segmenting the tree into segments having at least one node therein (Fig. 28);
assigning a unique identifier to each of the segments (Fig. 28);
associated at least one segment, if necessary, with the at least one user based on the identifier of the at least one segment (C. 47, L. 2-4);
allowing the at least one user access to the at least one segment that the user is associated with (C. 47, L. 2-4).

Kelly et al. does not specifically teach that said "allowing" step is conducted on the exclusive basis.

However, Kelly et al. does teach that the Security Service authenticates the identities of users and authorizes access to resources (C. 14, L. 42-43), thereby suggesting said feature.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kelly et al. to include allowing the at least one user access to *only* the at least one segment that the user is associated with, as suggested in Kelly et al., because it would advantageously enhance the security of the Kelly's system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Igor N. Borissov/

Primary Examiner, Art Unit 3628

07/01/2008